Supreme Court, U. S.
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APPENDIX

Supreme Court of the United States

TERM, 1973

No. 73-1347

THE BOARD OF SCHOOL COMMISSIONERS OF THE CITY OF INDIANAPOLIS, ET AL.,

Petitioners,

v.

JEFF JACOBS, SUSAN CHANDLER, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI FILED MARCH 5, 1974
CERTIORARI GRANTED JUNE 3, 1974

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Docket No. 72-C-263

(Caption Omitted)

RELEVANT DOCKET ENTRIES

Date	Proceedings
6/1/72	Complaint filed. Motion for Temporary Restraining Order filed.
8/21/72	Defendants file answer to Complaint. Defendants file Memorandum in Opposition to Motion for Temporary Restraining Order, Injunction and other relief.
8/22/72	Petition for Appointment of Guardian Ad Litem or Next Friend for Plaintiffs and all Members of the Class they Purport to Represent filed.
8/24/72	Hearing on Motion for Temporary Restraining Order was commenced. Oral arguments are heard on the collateral issue. Court denied Defendants' Motion to assign Guardian Ad Litem. Opening arguments of counsel are heard. Evidence of the Plaintiffs is heard in part. Dr. Karl Kalp files affidavit. Defendants file additional authorities in opposition to Plaintiffs' Motion for Temporary Restraining Order and injunctive relief.
8/25/72	Evidence of the Plaintiffs is heard and concluded. Plaintiffs rest.
8/29/72	Court orders that no additional nor supplemental hearings be held with respect to plaintiff's motion for temporary restraining order, and in further consideration of the fact that defendants do not intend to present additional evidence with respect to plaintiff's prayer for preliminary injunction and that the Board of School Commis-

Date	Proceedings
	sioners of the City of Indianapolis shall have three (3) weeks from the date of this order to adopt reasonable guidelines regarding the distribution and sale of student publications in the public schools of the City of Indianapolis.
9/21/72	Parties file stipulation for extension of time for defendants to respond to Court's order to file its amended rules and guidelines.
9/21/72	Court grants and approves stipulation of the parties that the defendants shall have until September 27, 1972 to respond to the Court's order to file its amended rules and guidelines in this case.
9/27/72	Defendants file motion to amend answer by additional paragraph of answer with consent of plaintiffs, c/s, which motion contains the defendants' amended rules.
9/29/72	Parties by counsel having met in conference with the Court on September 27, 1972, and the Board of School Commissioners of the City of Indianapolis having adopted Resolutions 1033 and 1034, which Resolutions amend Rules 11.05 and 11.06 of the Rules of the Board of School Commissioners, the Court now takes the matter under advisement for further consideration, and IT IS ORDERED that plaintiffs submit to the Court reasonable guidelines regarding the distribution and sale of student publications in the public schools of the City of Indianapolis no later than October 6, 1972. IT IS FURTHER ORDERED that the Board of School Commissioners of the City of Indianapolis submit to this Court additional and/or supplemental guidelines regarding the distribution and sale of student publications in the public schools of the City of Indianapolis no later than October 13, 1972.

Date	Proceedings
10/4/72	Plaintiffs file guidelines RE: distribution and sale of student publications.
10/12/72	Court grants motion to file additional paragraph of answer.
10/12/72	Defendants file additional paragraph of answer.
10/19/72	Court approves entry on motion for permanent injunction. (Case Closed)

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

Docket No. 72-2030

(Caption Omitted)

RELEVANT DOCKET ENTRIES

Date	Proceedings
11/9/72	Notice of appeal to the Seventh Circuit Court of Appeals from judgment and order of District Court.
2/28/73	Appellants' Brief filed.
3/28/73	Appellees' Brief filed.
4/13/73	Appellants' Reply Brief filed.
9/19/73	Oral argument before United States Court of Appeals for the Seventh Circuit.
12/14/73	Opinion of United States Court of Appeals for the Seventh Circuit filed. Affirmed, Judge Christensen Dissenting in part.

PLEADINGS:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

No. IP 72-C-263

JEFF JACOBS, SUSAN CHANDLER,
ET AL.,

Plaintiffs,

v.

THE BOARD OF SCHOOL COMMISSIONERS
OF THE CITY OF INDIANAPOLIS,
ET AL.,

Defendants.

COMPLAINT

Filed 6/1/72

Jurisdiction

1. This is an action for declaratory and injunctive relief, and for damages. . . . The rights, privileges and immunities sought to be declared and redressed are those secured by the First and Fourteenth Amendments to the United States Constitution and by Article I, §§ 3, 9, and 23 of the Constitution of the State of Indiana.

2. This is a proceeding for a declaratory judgment that the rule, regulation and policy of the above-named defendants . . . prohibiting and suppressing the distribution of a publication contravenes the Constitutional provisions cited. This proceeding also seeks an injunction against the Commissioners enjoining them from continuing to prohibit and suppress the publication, as well as damages resulting from such prohibition and suppression.

3. This is a class action under Fed. R. Civ. P. 23(a) and (b)(2).

PARTIES

• • •

10. Plaintiff class members are all high school students attending schools managed, controlled, and maintained by the Board of School Commissioners of the City of Indian-

apolis. Their number makes joinder impracticable, the questions of law are common to the class, the claims of Jeff, Susan, Martin, Nancy, Sally, and George are typical of the class, and they can adequately protect the interests of the class.

• • •

FACTS

14. In the late summer and early autumn of 1971, Jeff, Susan, Martin, Nancy, Sally, and George, met, together with fellow students, and class members, from public high schools governed, managed and controlled by the Commissioners, for the purpose of forming a new student publication which was eventually called "The Corn Cob Curtain." (Hereinafter referred to as "CCC").

• • •

16. . . . One of the decisions which they helped make was that there would not be an editor-in-chief or other person with dominant authority over the paper. . . .

17. *CCC* was not sold for a set price. Donations were accepted which ranged from $0.05 and up. . . .

18. *CCC* was intended as a forum for the expression of all views in the public education community. Contributions were published from students not among those considered as part of the staff, and the paper was open to contributions from teachers, administrators, and others having interests related to high school students.

• • •

20. *CCC* was openly distributed on many occasions in public schools governed, managed and controlled by Commissioners under color of law. . . . On Wednesday, February 9, 1972, an announcement was made over the public address system at Arsenal Technical High School to the effect that "It is against school board rules to sell any item on school grounds without the express prior approval of the General Superintendent." . . .

• • •

24. . . . Mr. Kalp stated that he would not permit distribution of *CCC* because he believed it was obscene. . . .

• • •

27. Staff members and persons who distributed *CCC* . . . voluntarily suspended distribution pending resolution of Jeff's inquiry to the administrators. . . .

• • •

33. At no time has the distribution of *CCC* been prohibited or suppressed as allegedly constituting a substantial, continuing, and material disruption of school activities. There has been no objection by Mr. Kalp, Mr. Kincaid, or the Commissioners to the place, time, or manner of distribution. No charge has been made by them that it is libelous.

34. The wilful refusal of the Commissioners to follow the requirements of the law with respect to student publications in the light of advice of counsel, is a proper ground for the assessment of punitive damages.

35. Money damages cannot, however, remedy the irreparable harm done by the suppression and prohibition of the rights of free press, thought and expression as well as of equal protection of the laws described above. No adequate remedy exists at law for those deprivations which continue to occur and will occur in the future unless enjoined by this court.

• • •

WHEREFORE, plaintiffs JEFF JACOBS, SUSAN CHANDLER, MARTIN LAUBACH, NANCY ROOD, SALLY SWAN, GEORGE YARBROUGH, on behalf of themselves and all others similarly situated, respectfully request this court to:

1. Declare that the actions of Mr. Kalp, Mr. Kincaid, and the Commissioners of prohibiting and suppressing distribution of *CCC* under color of law are illegal and unconstitutional.

2. Enter a preliminary and permanent injunction:

(a) Restraining, prohibiting and enjoining the Commissioners, their agents, servants and employees, and all persons in active concert and participation with them, from enforcing, applying or implementing the rules, regulations and policies of the Commissioners which prohibit and suppress the distribution of *CCC* within schools operated by them;

(b) Restraining, prohibiting and enjoining the Commissioners, their agents, servants and employees and all persons in active concert and participation with them from maintaining any disciplinary reports, memoranda or other notations concerning Jeff, Susan, Martin, Nancy, Sally, or George and their activities in connection with *CCC*, and causing all files, transcripts or other records subject to the Commissioners' control to have such material expunged from them.

3. Award $150.00 compensatory damages, and punitive damages in a nominal or other amount in the court's discretion, to Jeff, Susan, Martin, Nancy, Sally, and George.

4. Award costs of the action, but not attorney fees, to Jeff, Susan, Martin, Nancy, Sally, and George.

5. Grant such other relief as the court may deem just and proper.

Respectfully submitted

Craig Eldon Pinkus /s/
CRAIG ELDON PINKUS
Attorney for Plaintiffs

• • •

UNITED STATES DISTRICT COURT

(Title omitted in printing)

ANSWER TO COMPLAINT

Filed 8/1/72

FIRST DEFENSE

Come now the defendants and for first defense to the complaint state:

1. It denies the allegations contained in rhetorical paragraphs 1, 2 and 3 of the complaint.

2. Defendants are without sufficient information to admit or deny as pleaded the allegations contained in rhetorical paragraphs 4, 5, 6, 7, 8 and 9.

3. With respect to rhetorical paragraph 10, defendants deny the allegations therein, on the grounds that this is

not and should not be a class action, and further state that it appearing that the plaintiffs are all minor children, there is a legal question presented as to whether they are capable of representing themselves without a guardian ad litem or next friend appointed by the court, and defendants specifically allege that plaintiffs are certainly not capable of representing all of the high school students in the area alleged.

4. They admit the allegations contained in rhetorical paragraph 11.

5. With respect to the allegations in rhetorical paragraph 12, they admit that the parties defendant acted legally, and deny any and all other intendments and allegations contained therein.

6. With respect to rhetorical paragraph 13, defendants admit that they acted legally at all times, and specifically Karl Kalp and Wayne Kincaid acted legally at all times mentioned in the complaint. and specifically deny any and all other allegations or intendments in said paragraph.

7. Defendants are without sufficient information to admit or deny the allegations contained in rhetorical paragraphs 14, 15 and 16 of the complaint.

8. With respect to the allegations contained in rhetorical paragraph 17, the defendants admit that the paper in question was sold, but are without sufficient information to admit or deny the remaining allegations in said paragraph.

9. With respect to rhetorical paragraphs 18 and 19 of the complaint, the allegations as pleaded therein are denied.

10. With respect to rhetorical paragraphs 20, 21, 22, 23, 24 and 25, which constitute in the main the pleading of evidentiary facts, these defendants state that they are without sufficient information at this time to admit or deny all of the allegations contained therein.

11. With respect to rhetorical paragraph 26, it is not known what the plaintiffs know about compliance of the Commissioners with the law, and it is not known what their informal discovery has disclosed, nor is it known who it is that plaintiffs contend cited policies and regulations of the Board of School Commissioners, for the reason that this rhetorical paragraph, like the previous paragraphs, contains evidentiary as well as redundant material in the

main; the defendants state they are without sufficient information at this time to admit or deny said allegations.

12. With respect to rhetorical paragraphs 27 and 28 of the complaint, defendants are without sufficient information at this time to admit or deny said allegations, for the same reasons set forth in previous paragraphs of answer.

13. With respect to rhetorical paragraphs 29 and 30, the defendants admit that Mr. Kalp and Mr. Kincaid acted legally in taking the action taken by them, and deny all other allegations and intendments.

14. With respect to rhetorical paragraph 31, defendants admit that the Commissioners acted legally in affirming Mr. Kalp's position, and deny all other allegations and intendments therein.

15. The defendants deny the allegations contained in rhetorical paragraphs 32, 33 and 34.

16. With respect to rhetorical paragraph 35, defendants state that plaintiffs are not entitled to money damages or equitable relief and the defendants deny that any of plaintiffs rights have been violated.

17. With respect to rhetorical paragraph 36, there is no basis whatsoever for the claim that records of the plaintiffs should be expunged.

18. With respect to rhetorical paragraph 37, the allegations therein are denied.

WHEREFORE, the defendants and each of them pray that the relief requested in the complaint for declaratory judgment, temporary restraining order, injunction and all other relief be denied.

BREDELL, MARTIN & MCTURNAN

(Signatures omitted in printing)

SECOND DEFENSE

Come now the defendants and for second defense to plaintiffs' complaint and petition for other relief say:

1. No rights of plaintiffs have been violated whatsoever.

2. No irreparable damage will be done plaintiffs if a temporary restraining order and/or injunction are denied.

3. In addition to the foregoing, the prevention of the publications were clearly justified for the following reasons:

A. The distribution involved solicitation.

B. The publications are obscene.

C. The publications are libelous.

D. The publications are indecent, vulgar and profane.

E. The publications advocate and encourage a disregard of fundamental educational concepts and procedure.

F. The publications advocate violent action and even destruction of a school and murder of its principal.

G. The publications subject the teachers and staff to ridicule, humiliation and scorn.

H. Publications and solicitation of this sort are inherently and in fact were distractive and disruptive, and interfere with the function of the school to teach.

I. The Superintendent had ample grounds to stop distribution and sale of these publications.

J. Cases cited by plaintiff are distinguishable from this case and the law applicable thereto.

WHEREFORE, the defendants and each of them pray that plaintiff be denied all relief prayed for in the complaint and for all other relief proper in the premises.

BREDELL, MARTIN & MCTURNAN

(Signatures and Certificate of Service omitted in printing)

UNITED STATES DISTRICT COURT

(Title omitted in printing)

AFFIDAVIT

Filed 8/24/72

Comes now Karl R. Kalp, who being first duly sworn upon his oath, states:

1. He is acting Superintendent of the Indianapolis Schools.

2. He has been connected with the Indianapolis School System since 1948.

3. He is familiar with all aspects of the Indianapolis

School System, the educational goals of the community and the administration, morals and standards of the community respecting conduct of students and personnel in and about the schools.

4. He has had varied experiences with student problems, problems of salesmen frequenting the campuses and is qualified to speak upon the subject of dissemination of materials, sales and distributions of matters in the public school system and the effects upon the educational system of such activity.

4. He did prevent plaintiffs from distributing the "Corn Cob Curtain" on the campuses of the Indianapolis schools after lengthy consultations with teachers, the plaintiffs, attorneys, administrators, assistant superintendents and principals in the system.

5. It is the opinion of affiant that the distribution of the "Corn Cob Curtain" would be very harmful to tne students, teachers, principals and administrators of the Indianapolis School System.

6. Following are some of the reasons why affiant believes that distribution of the "Corn Cob Curtain" would be harmful:

A. Potential disruption which would be occasioned by the distribution of a paper which contained some of the items found in the "Corn Cob Curtain."

A large secondary school in these times is particularly susceptible to disturbances. The students may have been brought up on a diet of confrontation, confiict and in many instances actual violence. Under these circumstances it is not difficult to understand the apprehension with which secondary administrators view any potential for disturbing the normal course of events that usually obtains in a high school. Given the ratio of students to adults in a school situation, it is apparent that when control of the school is lost it is extremely difficult, if not impossible, to restore order without subjecting many people to dangers which are both unnecessary and undesirable for a school environment. The decision not to permit the paper to be distributed on high school campuses had to take into consideration that disturbances and unrest had occurred at various high schools. These disturbances had occurred at what was considered by the administration to be an alarming frequency. Under these conditions it seemed clearly unwise to support the distribution of anything which would contribute to the instability and potential for disruption in a situation which was already fraught with tension, particularly when there had recently been violent disruptions, arson, attempts at arson, vandalism, attacks and abuse of students and teachers for no apparent reason.

B. The result of the distribution of such a paper on the attitude the pupils would have toward the administrators who were described in unflattering, vulgar and obscene terminology.

The administrators who were described in some issues of the paper by language which is crude, vulgar and obscene, are persons who occupy positions of responsibility in the schools. These crudities and obscenities could do nothing but diminish the respect and esteem of the administrators by the pupils. A large part of the successful administration of a high school is the development and maintenance of esprit de corps among the student body. It can exist only under conditions which promote mutual respect among students, faculty and administration. Describing the administrator as a grotesque charicature in comic strip fashion can scarcely be construed as improving the conditions of mutual respect between students and administrators. This eroding of respect results in a much more difficult task for the administrators, the daily decisions which are necessary to insure the safety and to promote the optimum conditions for learning for all students are gravely in danger when the persons who are required to make those decisions are subjected to ridicule and vulgarities. Teachers cannot teach and students cannot learn unless there is a reasonable degree of uniformity and order in the schools. To satisfy the whim of an infinitesimal minority of the student body, the learning conditions for all students are imperiled.

C. The effect that the distribution of such a paper might have on classroom atmosphere.

Most high school students are in a period of development during which they have unusual exuberance, high energy output and great distractibility and have not yet become

comfortable with the adult emotions which they have acquired so recently and so rapidly. With several thousand of these young people collected together in the relatively narrow confines of a high school the potential for volatility is greatly increased. Frequently it takes only the slightest excuse to set off a chain of circumstances which permits an emotional release. All teachers know the difficulty of receiving a class which comes to that teacher hyper-stimulated by some activity in a previous class or some occurrence which they experienced on the way to class. It is not unusual to find situations which require the teacher to take the first 5 or 10 minutes of every class period to quiet down the class after it has been subjected to some emotion-evoking condition. The distribution of material such as that contained in the "Corn Cob Curtain" is almost certain to be the occasion, sooner or later, for the display of emotions and/or a real or fancied excuse for a display of strong feelings. The potential for disrupting the learning environment even though it may not be one accompanied by violence (though violence could very well erupt over the content of the "Corn Cob Curtain"), is extremely great and is something which prudent teachers and administrators seek constantly to avoid in order not to impede the opportunities for learning for all the students in their charge.

D. The need for some control over the kinds of printed materials that may be placed in the hands of pupils.

The laws of the State of Indiana require the attendance of children at school. The resulting student body of any school is thus a "closed" group about which neither the pupil nor his parents have any choice about joining. As such, it would seem reasonable that parents should expect that the Board of School Commissioners, their elected representatives, should exert influence to maintain a quality of literature on the school grounds—in classrooms and outside the classrooms, that reflects and is commensurate with the goals of education that are accepted by society in general and the local community in particular. Public education cannot survive with any other basic concept.

E. *Solicitation and distribution.* Affiant is familiar with the origin of rules of the school under Sections 11.05 and 11.06. Section 11.05 has been used during his tenure with

the school system to avoid people coming onto the campus with non-educational material and attempting to distribute them for various purposes, including salesmen who would approach teachers individually with items for sale and who, in the past, have actually attempted to make gifts to teachers to encourage them to recommend something to the administration for purchase. It has also been used to keep people from distributing inflammatory and dangerous, as well as libelous, obscene and other highly undesirable matter, such as Klu Klux Klan material, and other publications which no one would find related in any way to the educational goals of this community. Section 11.06 specifically refers to sales, but 11.05 has been very helpful in eliminating the type of conduct which is designed to lead to sales and which is not actually covered by 11.06 which deals with the actual sale itself or collection of money.

F. While there is some matter in the "Corn Cob Curtain" that is quite harmless, including some of the humor, poems, letters and editorials, the publications are so littered with obscenity, vulgarism, indecency, possible defamatory matter and matter which is designed to encourage disregard of school rules, that the publications as a whole are very damaging to the education of the children of this community.

G. There are many other reasons why this paper should not be allowed on the campuses of the schools, not the least of which is that if the school permits this paper to be distributed on the campuses, it is in effect lending its support and approval to the kind of material contained therein, and at the same time trying to teach children the use of proper language, the avoidance of vulgarity, crudity, obscenity and defamatory language. A great majority of the children in the school system would be very much opposed to the matter contained in this "Corn Cob Curtain" newspaper, and would lose respect for an administration that encouraged or allowed its distribution. Once losing respect of the administration, these children might also feel that there was no use in following the advice of adults who advised them in one fashion in the classroom and then approved distribution of offensive and obscene material in the halls. This could and definitely would discourage many students

and cause them to lose faith in their teachers. We can all recount numerous situations where a young child has had only his teacher to look to for training with respect to moral codes, decency, honor and integrity. If this trust is shattered many of our children will have no desirable adult models to emulate.

H. Practically all, if not all of our teachers in this system are shocked at some of the words which appear in this publication. Many teachers will despair of trying to teach anyone about decency and moral obligations and responsibilities if this type matter is distributed in our schools.

I. With respect to the contention that there is a time and place in the schools for the distribution of this type material, as an experienced teacher, vice principal, guidance director, assistant dean and assistant superintendent, and acting superintendent, I can and do categorically state that even if distribution is so limited to a time and place the damaging effects will permeate the entire system and will be no less detrimental. Once distributed, who is to say that the distributees will not display them to everyone they meet. "YOU CAN'T UNSPREAD BUTTER."

J. There is no time and place in our school system for filth and obscenity, libel and advocacy of violence.

Karl R. Kalp /s/
KARL R. KALP

(Jurat omitted in printing)

UNITED STATES DISTRICT COURT

(Title omitted in printing)

Filed 9/27/72

DEFENDANTS' MOTION TO AMEND ANSWER BY ADDITIONAL PARAGRAPH OF ANSWER (CONTAINING AMENDED BOARD RULES)

Come now the Defendants and respectfully move the Court to allow them to file additional paragraph of answer, on the following grounds:

1. Since this Court's Order of August 29, 1972, Defendants have amended Rules 11.05 and 11.06 of the Rules

of the Board of School Commissioners, which Rules, as amended, are attached hereto and marked Exhibits A and B, respectively.

2. Since the lawsuit involved the predecessors of 11.05 and 11.06, no question is now before this Court as to the constitutionality of the Rules as presently constituted.

3. Defendants believe that the Rules, as presently constituted, are sufficient to withstand any attack of unconstitutionality.

4. It is essential to the proper defense of this case that the amendment of answer by additional paragraph thereof be filed.

5. A copy of the proposed additional paragraph of Answer is attached hereto and marked Exhibit C. (Exhibit C omitted in printing)

6. Attorneys for Plaintiffs have advised attorneys for Defendants that they are agreeable to the filing of this Answer.

WHEREFORE, Defendants pray that they be allowed to file an additional paragraph of answer to put at issue the new Rules as presently constituted.

Respectfully submitted,
BREDELL, MARTIN & MCTURNAN

(Signatures and Certificate of Service omitted in printing)

EXHIBIT A TO DEFENDANTS' MOTION TO AMEND ANSWER

RESOLUTION NO. 1033, September, 1972

RESOLUTION RESCINDING SECTION 11.05 OF *POLICY & REGULATIONS OF THE BOARD OF SCHOOL COMMISSIONERS OF THE CITY OF INDIANAPOLIS* AND ADOPTING A NEW POLICY PERTAINING TO DISTRIBUTION AND DISPLAY OF WRITTEN AND PICTORIAL MATERIAL BY STUDENTS

WHEREAS, legal counsel has reported that Section 11.05 of the Rules of the Board has been declared unconstitutional by the Federal District Court for the Southern District of Indiana, and that a modification of said rule by provid-

ing procedural safeguards for students is advisable to avoid further litigation; and

WHEREAS, said legal counsel have prepared a proposed revision providing said safeguards;

IT IS, THEREFORE, RESOLVED that Section 11.05 be rescinded and the new rule shall read as follows:

The Board of Education desires to encourage individual freedom of expression and creativity by students within the Indianapolis Public School System and will approve the general distribution and/or display of any written and pictorial matter which upon review will not materially or substantially (1) interfere with the proper and orderly operation of the school (2) disrupt class or school activities, or (3) infringe upon the rights of others.

Prior to general distribution or display, all such material shall first be submitted to the principal or to such Review Board as may be designated within each individual school by the principal.

The principal or Review Board shall review the material to determine whether or not approval for distribution or display shall be given and shall inform the student or students of a decision by 9:00 a.m. of the second regularly scheduled school day following the date of submission of the material or such sooner time as may be reasonably practicable. If the student or students do not receive notice of a decision within the time aforesaid, it shall be presumed that the material is approved for distribution.

In the event that the material is approved for general distribution or display or no notice is given within the time set forth above, the student or students may distribute or display such material at the time and place customarily designated for such purpose within each school or, if such place is inappropriate, shall be advised of the manner, time, and place for distribution or display and shall be given a reasonable opportunity to generally distribute such material consonant with the physical facilities, operation, and educational routine of the school.

In the event that the material is not approved, the student submitting the material shall be notified in writing of the rejection and the reason for the rejection shall be included. Said student shall thereafter be entitled to a hearing by filing a charge with the Superintendent in the manner provided by Public Law 162 to the extent applicable.

In granting or denying approval, the following guidelines or rules shall apply:

1. No material shall be distributed which, either by its content or by the manner of distribution itself will interfere with the proper and orderly operation and discipline of the school, will cause violence or disorder, or will constitute an invasion of the rights of others.
2. No obscene material shall be distributed.
3. No libelous material shall be distributed.
4. No material shall be distributed unless the editor or some person in charge of the material verifies the identity of the author(s) of the material.
5. No material shall be distributed which contains indecent, vulgar or profane language, cartoons or pictures.
6. No material shall be distributed which advocates lawlessness or a disregard of school rules.
7. No material shall be distributed which subjects school administrators and personnel to ridicule. Responsible criticism shall be allowed.

Where the principal or Review Board deem it desirable, each school may enact supplemental regulations relating to the general distribution or display of student material within the scope and spirit of this policy.

The purpose of this policy is to encourage responsible student activity and to this end the policy is to be applied reasonably and responsibly taking into consideration the rights of the students, faculty, and school administration in conjunction with the physical facilities and orderly operations of the school.

For violation of this rule, a student may be suspended or expelled from school or the administrators

or teachers of the school corporation may take any other action reasonably desirable or necessary to help any student, to further school purposes, or to prevent an interference therewith.

EXHIBIT B TO DEFENDANTS' MOTION TO AMEND ANSWER

AMENDED RESOLUTION NO. 1034, September, 1972

AMENDED RESOLUTION MODIFYING SECTION 11.06 OF POLICY & REGULATIONS OF THE BOARD OF SCHOOL COMMISSIONERS OF THE CITY OF INDIANAPOLIS CONCERNING THE SALE OF ITEMS OR SOLICITATION OF FUNDS WITHIN THE SCHOOL.

WHEREAS, legal counsel has reported that Section 11.06 of the Board Regulations has been questioned by the Federal District Court for the Southern District of Indiana, that a modification of said rule is advisable to eliminate any possible discrimination among people desiring to sell merchandise or collect money;

IT IS, THEREFORE, RESOLVED by the Board of School Commissioners of the City of Indianapolis that Section 11.06 is amended to read as follows:

> No person, including students and organizations or corporations, other than the school corporation acting through its designated agents, *or organizations of parents and teachers or students whose sole use of funds is for the benefit of the particular school in which they are organized or in attendance,* may sell merchandise or material, collect money, or solicit funds or contributions from the students for any cause or commercial activity within any school or on its campus.

UNITED STATES DISTRICT COURT

(Title omitted in printing)

ADDITIONAL PARAGRAPH OF ANSWER
Filed October 12, 1972
(CONTAINING SECOND AMENDMENT OF BOARD RULES)

THIRD DEFENSE

Come now the defendants and for third defense say:

1. Rules 11.05 and 11.06 have been amended since the hearing and entries in this case respecting guidelines for publication and circulation of newspapers.

2. Exact copies of the resolution amending Rules 11.05 and 11.06 are attached hereto and marked Exhibits A and B respectively and the resolution adopting the disciplinary and procedural rules of the Board is attached hereto as Exhibit C. (C omitted in printing)

3. Said rules are not unconstitutional.

4. The proposed newspaper which is an exhibit in this case does not meet the standards of these rules for reasons enumerated in previous paragraphs of answer and contentions of defendants in this case.

5. Any subsequent newspaper complying with the standards of 11.05 and circulation of which does not violate 11.06 would be allowed on the school campuses under the conditions and at the time and place set forth in said rules.

6. It is absolutely essential that the school have the right to limit sales on campus to those situations enumerated in Rule 11.06 to avoid unlimited solicitation, collection and sales and the attendant disruption of school functions naturally caused thereby.

7. It is absolutely essential that the school authorities have some voice over the distribution of student publications on school campuses, to avoid disruption, to prevent obscenity, indecency, libel and slander, from permeating the school system to the harm of the system, its students and faculty, and to guard against irreparable injury to the school, its students and faculty, and against litigation against the schools for permitting or sanctioning publications of such matter.

8. The defendants primary function is to educate the children of this community, and there are certain types of publications which disrupt this function, and/or which are not constitutionally protected.

9. Under the present rules, safeguards of plaintiffs' constitutional rights are provided for.

WHEREFORE, defendants and each of them respectfully

pray that plaintiffs take nothing by way of complaint against them, that their prayers for temporary restraining order, injunction and damages be denied, that this court declare that Rules 11.05 and 11.06 are not unconstitutional, that plaintiffs' newspapers as presented in this case are obscene, indecent, libelous and disruptive, and for all other proper relief in the premises.

BREDELL, MARTIN & MCTURNAN

(Signatures and Certificate of Service omitted in printing)

EXHIBIT A TO ADDITIONAL PARAGRAPH OF ANSWER

Resolution No._____ October ____, 1972

Resolution Amending Rule 11.05 of the Rules of the Board pertaining to distribution of printed and pictorial matter in the schools.

WHEREAS, a question has been presented concerning Rule 11.05 of the Rules of the Board pertaining to distribution of pictorial and printed matter in the schools, and

WHEREAS, it is desirable that distribution of such matter be subject to reasonable limitations, and

WHEREAS, the Board is presently involved in litigation respecting its rules, and has been advised by the Federal District Court that its present rules will be declared unconstitutional, and

WHEREAS, the Board is desirous of fulfilling its obligations to the community to maintain high standards of conduct and learning in the public schools and to teach and encourage the proper use of language, among its students, while at the same time protecting the rights of students in the schools to express their views.

IT IS, THEREFORE, RESOLVED by the Board that Section 11.05 is amended to read as follows:

1. *General.* The following rules shall govern the distribution of literature and other communicatory material (hereinafter collectively referred to as "literature") by students in the Indianapolis public school system (any of whom is hereinafter referred to as "a student") in or upon the School Board's public school buildings, structures

and/or grounds (the term "school" being used, hereinafter, to signify any such building, structure or the grounds of any such building or structure).

1.1. *Distribution of Certain Kinds of Literature Prohibited.*

1.1.1. No student shall distribute in any school any literature that is—

1.1.1.1. obscene as to minors

1.1.1.2. libelous or

1.1.1.3. either by its content or by the manner of distribution itself, productive of, or likely to produce a significant disruption of the normal educational processes, functions or purposes in any of the Indianapolis schools, or injury to others.

1.1.1.4. not written by a student, teacher or other school employee; provided however, that advertisements which are not in conflict with other provisions herein, and are reasonably and necessarily connected to the student publication itself shall be permitted.

1.1.2. Literature other than literature of the kind described in Section 1.1.1. above, is hereinafter referred to as "distributable literature."

1.2. *Who May Distribute Distributable Literature.* Subject to the provisions of Section 1.3. below, distributable literature may be distributed by, and only by, any student, within any school in which the student is regularly enrolled.

1.3. *Conditions Under Which Distributable Literature May Be Distributed.*

1.3.1. No distributable literature shall be distributed by any student in any school—

1.3.1.1. while classes are being conducted in the school in which the distribution is to be made;

1.3.1.2. in any place other than a place designated by the principal of the school in which the distribution is to be made, which place shall be selected by the principal with a view toward insuring that the proposed distribution will be made without interference with other persons lawfully within the school;

1.3.1.3. in such a way that the place of distribution (or

any other part of the school in which the distribution is made) becomes littered;

1.3.1.4. in such a way that any person within the school can reasonably be made to feel that the distributable literature is being "forced" upon him;

1.3.1.5. in immediate exchange for money or any other thing of value (or for an immediate promise of money or any other thing of value), whether the transaction is characterized as a sale of the distributable literature, as a contribution to finance the publication or distribution of the distributable literature, or as any other transaction whereunder money or any other thing of value (or a promise of either) immediately passes to or for the direct or indirect benefit of the student who is distributing the distributable literature; or

1.3.1.6. unless the name of every person or organization that shall have participated in the publication of the distributable literature is plainly written in the distributable literature itself.

1.4. *Spirit in Which the Foregoing Regulations are to be Applied.* In the application of the foregoing regulations pertaining to the distribution of literature in the schools by students, principals and other school administrators shall take care to insure that the constitutional and other legal rights of students to express themselves freely shall not be infringed. The spirit in which the regulations shall be applied shall not be a repressive one, but shall combine a respect for the rights of students with an appropriate regard for the maintenance in the schools of the kind of environment that is necessary to the School Board's conduct of its public educational mission in the School City of Indianapolis.

1.5. *Limitation of the Scope of the Foregoing Rules.* The foregoing rules define the conditions under which students will be permitted to distribute literature in the schools. Nothing in those rules is intended to be, or is, or shall be construed as, an indication that the School Board will permit, without its express prior consent, the distribution in any school of any literature or other article by any person who is not a student in the school where the literature is to be distributed.

1.6. *Penalties for Violation and Student Rights of Review and Appeal.*

1.6.1. For violation of any of the provisions of this Rule 11.05 a student may be suspended or expelled by the principal of the school where such violation occurs and the principal or any teacher of the school may take other disciplinary action which is reasonably desirable or necessary to help any student, to further school purposes, or to prevent any interference therewith.

1.6.2. In the event that suspension or expulsion is deemed necessary, the due process provision of public law 162 of the laws of the State of Indiana and the rules of this board adopted by Resolution #1030 shall apply.

1.7. *Severability of Rule.* If any one or more sections, clauses or phrases of this Rule 11.05 shall be declared unconstitutional, such decision shall in no sense invalidate any other part of this act.

EXHIBIT B TO ADDITIONAL PARAGRAPH OF ANSWER

Amended Resolution No. 1034, September, 1972

AMENDED RESOLUTION MODIFYING SECTION 11.06 OF POLICY & REGULATIONS OF THE BOARD OF SCHOOL COMMISSIONERS OF THE CITY OF INDIANAPOLIS CONCERNING THE SALE OF ITEMS OR SOLICITATION OF FUNDS WITHIN THE SCHOOL.

WHEREAS, legal counsel has reported that Section 11.06 of the Board Regulations has been questioned by the Federal District Court for the Southern District of Indiana, that a modification of said rule is advisable to eliminate any possible discrimination among people desiring to sell merchandise or collect money;

IT IS, THEREFORE, RESOLVED by the Board of School Commissioners of the City of Indianapolis that Section 11.06 is amended to read as follows:

> No person, including students and organizations or corporations, other than the school corporation acting through its designated agents, *or organizations of parents and teachers or students whose sole use of*

funds is for the benefit of the particular school in which they are organized or in attendance, may sell merchandise or material, collect money, or solicit funds or contributions from the students for any cause or commercial activity within any school or on its campus.

JUDGMENTS, ORDERS AND DECISION:

1. The United States District Court's Findings of Fact and Conclusions of Law is printed in the Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit, Appendix A, page 1A.

2. The United States District Court's judgment, entitled "Entry on Motion for Permanent Injunction," is printed in the Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit, Appendix B, page 5A.

3. The opinion of the United States Court of Appeals for the Seventh Circuit is printed in the Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit, Appendix C, page 16A.

OTHER PARTS OF RECORD:

UNITED STATES DISTRICT COURT

TRANSCRIPT OF PROCEEDINGS
VOLUME I

(*Pages 34-35*):

THE COURT: I am inclined to announce the Court is not convinced it is required to appoint a guardian ad litem for one who presents a constitutional issue to the Court. I have some reservations with regard to this ruling, however, but I do find it within me to distinguish a constitutional issue from an issue concerning a monetary recovery where the fund should be preserved, where the immature or minor person should have protection insofar as the conservation of his recovery in his action is concerned. I realize it could well be argued that preservation of constitutional rights are no different than the preservation of rights concerning money. I do believe that the law would allow a greater latitude and take a different attitude toward the preservation of constitutional rights. For that reason, I am going to rule it is not incumbent on the Plaintiffs to be represented by a guardian ad litem. I would expect this issue to be preserved and held for review in the event there should be occasion to have any rulings in connection with this proceeding reviewed on appeal.

(*Pages 89-91*) *Questions 48, 52 and 54:*

CROSS EXAMINATION, GEORGE YARBROUGH
QUESTIONS BY MR. CRAIG PINKUS

Q. George, do you intend to write for Corn Cob Curtain in the future if it is revived as a publication? A. Yes, I do.

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Q. . . . In other words, if you only let people write for the paper who were students in the Indianapolis public schools? A. No, we had a post office box where we had put in the newspaper, anyone, teachers, any parents, anybody who wanted to write anything in to the paper and give their opinion on something, or write an article such as classes, or class changes, or concerts, or anything of that sort.

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Q. So that contributions were made to this publication by persons who were not students in the Indianapolis Public School System? A. Yes.

(*Pages 105-106*):

THE COURT: I think one of the more significant features of this lawsuit to be coming out of this case is the Court's ruling concerning the right of the minors to proceed without proceeding by way of a guardian ad litem. I reflected over that ruling over the noon hour. It is a rather far-reaching opinion. I do believe the Court is correct insofar as the constitutional issue is presented. By that ruling I certainly am not saying that a minor may proceed without a guardian ad litem in a case not involving the magnitude of the constitutional rights that are asserted in this case, and that is constitutional rights under the First Amendment, meaning speech and expression. You may proceed.

In other words, I have in mind what about children of very tender age, 12, 13, 14 coming in through LSO to bring an action. What are we going to be confronted with. This is a pretty important ruling, and it is a very serious matter that we are dealing with. . . .

(*Pages 138-140*):

DIRECT EXAMINATION, JEFFREY JACOBS

Q. Did you decide on any kind of formal organization in your publication? A. We did decide we would not edit the paper. We decided we would have a post office box so anybody, whether they be students, teachers, parents, or whatever, could submit to this newspaper, . . .

• • •

THE COURT: I would like to interrupt. It is your testimony you had no editor as such?

THE WITNESS: Right.

THE COURT: Who made the final conclusion in respect to what would be contained in the printed pages?

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THE WITNESS: We had layout meetings, as such, and just for the purpose of laying out the paper and pasting, and using anything that was sent in, we put in the paper.

THE COURT: In other words, you would print anything that was sent in?

THE WITNESS: Whoever attended these meetings would do this, yes.

THE COURT: You edited out nothing?

THE WITNESS: Correct.

(*Page 143*) *Question 27*:

Q. In your own words will you please describe to the Court the way in which you distributed Corn Cob Curtain at your high school? A. Very haphazard. We would get as many people as we possibly could just to pass them out, and we told them they could receive money for it, then they should give this money to us so we could continue printing the paper, Corn Cob Curtain.

(*Pages 144-145*) *Questions 30, 32 and 34*:

Q. What about the time and place of distribution that you did? A. I distributed at Arsenal Technical High School on the grounds quite a bit, and a lot of the times outside the grounds, and sometimes at concerts.

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Q. Given that, what locations did you take up on those grounds for the purpose of distributing the paper? A. Ordinarily outside the buildings, or in the lunch room sometimes.

• • •

Q. How did you go about distributing papers inside the lunch room? A. Ordinarily, I would just go from person to person and ask them if they would like to buy Corn Cob Curtain.

(*Page 154*) *Questions 81 and 82*:

Q. Tell us basically what happened at the time, what led up to being told you could not distribute the publication? A. Well, first I wanted to make sure there was such a ruling. So I called the School Board, and I tried to reach Dr. Campbell, who was then Superintendent of the School Board, and instead I was given Karl Kalp to talk to, who was Assistant Superintendent at that time.

Q. Would you please relate for us the substance of that conversation with Mr. Kalp? A. Yes. I asked him if such a newspaper was being published and whose judgment, who was the person that was to judge whether that paper could be distributed. And at that time he told me the high school principals, individual high school principals had that authority, to approve or disapprove such a publication. And so then, well, that's about as far as the conversation went because at that time he was not familiar with the paper.

(*Pages 156-157*) *Questions 85 through 91*:

Q. Did the principal tell you at that time to stop distributing Corn Cob Curtain? A. No.

Q. What, if anything, Jeff, occurred after that meeting with your principal on the question of distributing the paper? A. Well, he informed me there was to be a meeting with the principals and School Board administrators the following morning, and that he expected Mr. Kalp to make a decision at that time concerning the distribution of the paper.

Q. What happened next? A. Well, so the next day he had gone to the meeting, I didn't see the principal, but the following day he came to me and told me Mr. Kalp had decided the newspaper was obscene, and the principals were to ban its distribution from the school proper.

Q. As a whole all principals were to take that position, is that correct? A. That's right.

Q. What, if anything, did you do on this matter after that? A. We stopped distribution, and I called Karl Kalp back.

Q. When you say you stopped distribution, that was immediately upon the information being given to you by your principal that Mr. Kalp regarded the publication as obscene? A. Well, it was as immediate as possible. I had to relay the message to other people that were distributing the paper at the time.

Q. Since that time have you distributed the Corn Cob Curtain in any Indianapolis public school? A. No, we have not.

(*Pages 158-159*) *Questions 97 through 101*:

Q. Did he discuss the possibility with you of meeting on the question of the obscenity of the papers? A. Well, I asked him at that time if we could arrange some type of meeting with our school principal and officials, and the school Board and members of the Corn Cob Curtain so that we could discuss what was obscene in the paper, and what was not.

Q. What was his response to that? A. He said that would be fine.

Q. What did you do subsequently? A. I told him I would contact him at a later date as to the date and set up an appointment for a meeting.

Q. Did you do that? A. No, I did not.

Q. Did you drop the issue at that point? A. Yes.

(*Page 162*) *Questions 122-123*:

Q. You have any idea how many copies were distributed? A. Approximately 200.

Q. Out of about how many? A. 3,000.

(*Pages 166-169*) *Questions 138 through 148*:

Q. If the paper were revived what form of organzation would it take; in other words, how would it be operated if it again could be published? A. I think as far as people that work on the paper holding office, it will be operated the same way. Nobody will have control over the paper, editing control or such as that. . . .

Q. Now, Jeff, you heard question raised with respect to the content of these publications, and you have heard the suggest that they are obscene. Realizing you are not an expert in this area, do you have any thoughts at all with respect to the content of the publication? A. Yes, I believe the words they are referring to as being obscene are words that have been taken out of context. A lot of these words are used by people to place emphasis on certain things, and not for reasons of offending anybody.

Q. What about the reasons of appealing to their sexual interest? When you were writing, did you have anything like that in mind? A. No, sir, I did not.

Q. Did you ever use any of these kinds of words in your writing? A. No, I did not.

Q. Did you disapprove of their use by colleagues who employed them? A. No.

Q. Why did you not disapprove of their use? A. Well, I believe that is only fair that they should be using the words they choose in expressing themselves.

Q. Do you . . .

THE COURT: They have no better way of expressing themselves. I have always been informed a person who uses vulgarity in their expressions are either inarticulate or illiterate.

THE WITNESS: Well, a lot, well, there is some discrepancy there, I think. A lot of people use this in every day language and there are a lot of people that have opinions that they may be illiterate. But if that is the words they choose to use, well, we choose not to edit the paper, and in any case that means we would not edit these words.

Q. Jeff, did you react by having the sense you were baser nature, if you will, was being appealed to by your colleagues and wrote articles employing these words? A. Would you rephrase that?

Q. Yes, this is a difficult question. Did you think that your friends who used this language which has been objected to were trying to appeal to your baser instincts, that they were using these words to arouse you sexually? A. No, I do not believe so. And another thing is none of my personal acquaintances used any words that could be considered obscene. Most of these words were used by people completely unfamiliar to any of us, and were sent in to the post office box, and that is the way we chose to run the paper.

Q. Why didn't you censor out those articles written by others who used this kind of language? A. Well, there again, it was their choice to use these words for emphasis, and we felt that goes along with expression, and we chose not to censor the words.

Q. Do you think those words were used for any purpose besides emphasis? A. No, I do not. I think these people that used them, I'm sure they didn't have anything in mind when they used the words, other than emphasis because I'm sure that is the way they talk in every day language.

(Pages 171 through 180) Questions 159 through 180 and Questions 182 through 185:

CROSS EXAMINATION, JEFFREY JACOBS

QUESTIONS BY MR. LAWRENCE MCTURNAN

Q. Jeff, I believe you testified that neither you nor any of your friends used these words that could be considered obscene. Is that your testimony? A. That's correct.

Q. Why is that? A. Well, for myself personally I don't

use language like that, especially in articles that go before the people.

Q. And why is that? A. Why is that?

Q. Yes. A. It's my personal feelings I did not need to use words in order to express myself.

Q. Is that the only reason? A. Yes.

Q. It was not any concern for the people whom you are addressing, not any concern on your part you might offend them? A. No.

Q. You have no concern that you might influence other children to adopt and use these words? You have no feelings about that? A. Well, I choose not to use these words. If I don't use the words, well, then a question such as that would be irrelevant.

Q. Well, Tech is a pretty large school, isn't it? A. Yes.

Q. How many students? A. Approximately 5,000.

Q. Do they all know you personally? A. No.

Q. You were one of the top students at Tech, are you not, sir? A. Higher than 50 percent, I guess.

Q. You were on the track team? A. Yes.

Q. You were on the football team? A. No.

Q. I thought you went out for football. A. I played for two years.

Q. But the kids would know, more children would know you than you would know; would that be true? A. Yes, I suppose.

Q. And there would be younger children that would look up to you in school? A. Yes.

Q. And there would be children who would know you were one of the editors or publishers of this newspaper, would they not, if it were circulated? A. They would know that, yes.

Q. And there would be children who in some instances would assume that you approved this type language, would they not?

MR. PINKUS: We object to the question as phrased. It calls for a very difficult conjecture and conclusion on the part of the witness as to the assumptions of unknown people.

THE COURT: I would say that is a valid objection. I would sustain the objection.

Q. Have you ever thought of that possibility? A. Possibility of what?

Q. Influencing younger children that look up to you in the use of these vulgarisms and obscenities, and the effect upon those children.

MR. PINKUS: We object to the question as phrased because the witness has indicated he does not use this kind of language. The question now implies the effect of such usage by the actions and writings.

MR. MCTURNAN: Let me rephrase the question.

Q. Assuming you do not use these words yourself, and assuming further that there are children who know you in school, many of them younger than you and who would know, as you testified, that you were connected with the paper. Has the thought ever occurred to you that some of these younger children might out of their respect for you, their looking up to you, adopt the use of these words thinking that you approved of them? A. I have most likely thought of that, but I think more likely I thought in terms if I did not use these words or anything else that would offend these children you are speaking of, well, then they should not associate me with such offensive language, or whatever.

Q. But you would have no way of assuring yourself of that, would you, Jeff, unless you wrote them in the paper yourself under your signature that you did not approve them and did not use these words? A. In one issue, in fact, we did write and I think this was pretty much a total view of the staff people that worked for the Corn Cob Curtain, that the issues, well, the opinions of—well, they originated with that person alone, and that were not joint opinions of all the people that worked on the paper.

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Q. Now, you stated that you thought, as a matter of fact, your counsel asked you to draw a conclusion that these people you don't know that wrote these anonymous letters were just using them to emphasize to your points.

You were able to testify about that, were you not? A. I was.

Q. Without having conversed with the authors of those articles prior to your testimony? A. Yes.

Q. And that would be guesswork on your part, would it not? A. Yes.

Q. Now, you testified—strike that. I have excerpted from your various publications a few pages, and I want you to read a few passages. Then, I want to ask you some questions.

MR. PINKUS: We object, Your Honor, to this entire technique, which is long being discredited in the, to determine whether a matter is obscene. It is long established on this issue that passages may not be selected and read out of context in an attempt to embarrass or cause any kind of change and demeanor of the witness. . . .

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MR. MCTURNAN: English Courts, as pointed out in my brief, recently handed a landmark decision, difference between newspaper and books with regard to looking at the entire publication to determine its obscenity. English Courts have held a man may be imprisoned for specific articles in a newspaper which are obscene, whereas they still adhere to the rule of viewing an entire book to determine its central theme. . . .

My point here is a newspaper, this is a very sound opinion and developed in jurisprudence, is a series of unrelated articles. We all know from our own experience we read a few select articles in the newspaper each day, and that the impression created by each article is the impression that we take away from that newspaper. It is not an overall impression as to whether the newspaper is good, bad or interesting. It is with regard to each specific article which we remember out of context of the entire newspaper. In addition to the Ginsberg rule with respect to minors as the three conditions.

One, if it appeals to prurient or morbid or shameful interest of the minor. I want to see what reaction the reading of this has upon this young man. Counsel has put his finger on it, that he will be embarrassed, embarrassed

synonymous with a shame. We may be getting to the heart of what is obscene when it comes to minors. I think it is very significant how this young man reacts to this and how he answers the questions I intend to ask him after he has read it.

THE COURT: I am going to overrule the objection. Now, I am impressed with this distinction drawn between determining whether a book is obscene in a legal sense as distinguished from a newspaper article. I think there definitely is a difference to be drawn between a newspaper, if this is a newspaper, and a book.

• • •

MR. PINKUS: We wish to make one additional comment, that is, the capacity to embarrass this young man, which is entirely novel and greedy in the concept counsel views obscenity. He already indicated he personally does not choose to utilize these words. By compelling him to read these words, we're going forward in an act, which is sheer calculated embarrassment for a person who already states he doesn't employ this language. It doesn't go to the reasons other people employ this language.

THE COURT: He is the main Plaintiff in the action, and one of the leaders, from what the evidence establishes up to this point, in purveying this publication. The Court will overrule the objection.

(Pages 183-184) Questions 188 through 200:

Q. Now, referring back to your earlier testimony on direct examination and again on cross examination, that you felt people who wrote these things in just tried to emphasize a point. This last article you notice seems to be rather calculated article, rather than blunt article, did it not? A. Excuse me, I did not write that.

Q. I'm not talking about your writing. You were discussing what these people meant who wrote in the articles and their use of words. And I thought at one time you were in agreement they were short of vocabulary and were trying to use these words to express themselves. A. Yes.

Q. Getting to the last sentence you read, you think that would be the case? A. What is that last sentence, please?

Q. "Number of freak girls screwed." A. I believe that this is pertinent to the article, because I believe the article was a sarcasm, and not to be taken seriously.

Q. It wasn't, wasn't written by an intelligent person? A. No.

Q. Or a person who lacked vocabulary, you wouldn't say that, would you? You say, "The editors of the Curtain have devised a system of points to determine, not only who is a hippie," et cetera. That is perfect grammar, and they use considerable number of words, correct? A. Yes.

Q. You say you didn't write it, but this is all intent and purpose from reading it, seems to be an idea of the editors, is that correct? A. I believe the person that wrote it was at the time helping the paper.

Q. One of the editors? A. Actually, we did not have editors.

Q. Now, how about the cartoon? A. How am I supposed to answer that?

Q. You said that you knew the person who made up this cartoon. Who was that person? A. David Alley.

Q. Did he like the principal? A. It was, there was nothing in the cartoon that was directed at any one principal.

Q. This was published on the Tech campus, wasn't it? A. No.

Q. It was directed to all principals? A. I have no idea what his intentions were.

(Pages 188 through 193) Questions 227 through 230; Questions 237 through 243; and Questions 253 through 261:

Q. . . . Do you know what "prurient," p-r-u-r-i-e-n-t means? A. No.

Q. You know what the word "shame" means? A. Yes.

Q. Would you give me an example, usage of the word "shameful"? A. Oh, I suppose a woman that would prostitute her body would be an example of a shameful act.

Q. That would, I suppose, register upon your shameful interest, if that is the way to say ". A. Yes, I believe so.

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Q. . . . Now, what is your reaction when you are placed with somebody in a situation where you cannot remove yourself from them, who uses this type of language, four-letter words? A. It upsets me.

Q. Does it embarrass you? A. No, I don't believe so.

Q. It just upsets you? A. Yes.

Q. Then you are uncomfortable until you leave his presence, I assume? A. Yes, if they are being loud and aggressive about it, yes.

Q. Suppose he were soft and non-aggressive about it, but if it was continued, continual flow? A. I most likely wouldn't associate with such a person.

Q. It would make you uncomfortable, however, would it not? A. Excuse me?

Q. That would make you equally uncomfortable, would it not? A. Yes.

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Q. You kept the names anonymous in many instances, did *not* not? A. Well, that was a choice of whoever wrote them.

Q. But you make it plain in the paper they would be protected, did you not? A. I don't recall.

Q. You don't recall you had an ad in there that said "Your name will be protected"? A. I don't recall.

Q. You're not saying you did not? A. No.

Q. Now, you asked for a hearing with Mr. Kalp and some of the other administrative staff, did you not? A. Yes.

Q. And he said, Fine? A. Yes.

Q. You didn't follow that up? A. No.

Q. That was your choice? A. Well, yes, after I discussed it with friends and well, Sal Lowenstein, who I referred to previously.

Q. He told you not to go in and talk to the school? A. Yes.

(Pages 196 through 198) Questions 279 through 281:

Q. During the time you were publishing this newspaper before it was barred, do you of your own knowledge know of any discrimination practiced by the coach at Tech High School for the ball team?

MR. PINKUS: We object. The term "discrimination" is undefined. It has several possible meanings.

THE COURT: Overruled.

Q. Discriminated as used in your newspaper.

THE COURT: Overruled.

A. Yes, I felt there was some discrimination.

Q. With regard to what? A. Myself as one. I had played for two years, and most of that time I played second string, and a lot of, well, I was often criticized for my hair length the second year I played, and I was harassed, well, not harassed, but told off by the coach I would have to have my hair cut, which I did so three times. And a lot of other times I would be either sitting on the bench or out playing parttime just because—and I felt because it was for that reason.

THE COURT: How long was your hair?

THE WITNESS: Probably a little bit—after the third time I had it cut it was no longer than what it is now.

THE COURT: Before the first time?

THE WITNESS: Before the first time, oh, two or three inches, I felt at the time was—I combed my hair in an Afro hair-style, which I'm sure you are familiar with, and it was no longer than the other Caucasion boys that played football, but I think it was because I combed it differently.

(Pages 209 and 210) Questions 324 and 325:

Q. The article that goes into points or judging what a hippie is. A. Yes.

Q. Will you just explain to the Court why you regard that as a joke? A. I only said that because I think you would have to be pretty ignorant to take that seriously, that article, because it was totally ridiculous. But it was meant to be such. If anything, it was in criticism of people that would take such as serious; and I think that means the obscene matters that were involved also.

(Pages 212-214) Questions 340 through 349:

Q. What kind of literature have you found those words used in? A. Well, all types of literature from, oh, I suppose religious newspaper or Jesus Freak newspapers, as you might term them, on to communist literature, any type of newspaper such as that.

Q. Did you ever see these words used in novels? A. Yes, literature.

Q. Have you seen these words used in nonfiction books? A. Yes, and many that I admire.

Q. Can you name any of those books? A. I just recently read Catcher in the Rye, which makes quite a bit of use of such language, and it's supposedly an excellent novel.

Q. When you read the words that we are all talking about in Catcher in the Rye, did you have an emotional reaction of any kind to those words? A. Nothing that upset me. It just further expressed his views.

Q. Did the words seem inapproprate to you? A. No.

Q. Did they offend you? A. No.

Q. How did you happen to be reading that particular book? A. Well, Susan Chandler, who is also a plaintiff in this case, advised me to read it. She said it was a good book.

Q. Do you think those words were used in that book solely for emphasis? A. Yes.

Q. And that didn't offend you? A. No, it did not.

TRANSCRIPT OF PROCEEDINGS
VOLUME II

(Pages 237 through 239) Questions 26 through 37:

DIRECT EXAMINATION, SUSAN CHANDLER

Q. Now, Susan, in any of the articles which you wrote did you have occasion to use any four-letter words or vulgarisms to which Jeff Jacobs had testified yesterday? A. No.

Q. And did you know that there were such words that appeared in the Corn Cob Curtain? A. Yes, I did.

Q. And did these words offend you in any manner? A. No.

Q. And in the context in which they appeared, did these words or terms offend you in any manner? A. No.

Q. Have you read any novels or publications which have had similar words as those which have been challenged here yesterday? A. Yes.

Q. Would you please describe to the Court the novels, or books, or publications in which such words appeared? A. Well, there is quite a few out now. I can just remember some other people talked about a lot, like Catcher in the Rye, Catch-22, Godfather, and there's probably a lot more.

Q. And were you given these books by anyone? A. Yes, I got them from Mom's library.

MR. MCTURNAN: Where?

THE WITNESS: From my mom's library or collection.

Q. And your mother is employed? A. Yes.

Q. What is her position? A. She's a history teacher at Eastwood Junior High, Washington Township.

Q. And your mother provided these books such as Catcher in the Rye, which contain such words? A. I don't know if Future Shock, but she supplied them for us, yes.

Q. And read in the context in which these words appeared, four-letter words and other vulgarisms, to which defense counsel has referred, did they offend you? A. No.

Q. And in the context in which these words appear, did they in any manner upset you? A. No, they didn't.

(Pages 244-245) Questions 64 and 70:

Q. . . . For the issues on which you worked, where did you distribute the newspaper? A. Well, I usually tried to sell after the end of my schedule off school property.

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Q. And what would be your distribution of newspapers, if you were permitted in the future? A. I would probably continue to sell after school on the sidewalk a block or two away.

(Pages 248 through 251) Questions 78 through 82 and Questions 84 through 87:

Q. I believe I understood you correctly, Susan, that you don't use any of these four-letter words yourself? A. I never used them in any of the articles I wrote.

Q. Why is it you have never used any of these words? A. They weren't necessary for my articles.

Q. Do you have any origin in your family trait? A. Pretty much so. I think people that use those, usually learn them at home, and we never use them in my home.

Q. That is not a part of the language in your household, is that correct? A. No.

Q. Do you think that is proper to exclude from your household conversation that sort of language? A. I think so, although I suppose you could say it was a matter of taste.

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Q. I believe, Susan, where we left off was that you were describing your family and the type of communicative language that is used which excludes these four-letter words. I beleve you said you approved of that type of communcation, exclusion of the use of four-letter words. Is that right? A. Yes.

Q. And would you disapprove the use of four-letter words in and about your home, having in mind your present feelings in that regard? A. No.

Q. You would not? Do you do it? A. Occasionally, but I think everyone does.

Q. Do you speak to your mother and father, the use of four-letter words? A. Not very often.

(Pages 253 through 255):

THE COURT: I feel, Mr. Turnan, that you are actually expounding the issues here to be tried far beyond what this Court is called upon to decide. . . .

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THE COURT: . . . And I do not feel for the purpose of the present proceedings, and I doubt seriously for the purpose of the lawsuit, the Court is required in making its ruling on the relief sought to determine whether this publication is, or is not obscene, or whether it is libelous.

(Pages 260-261) Questions 99 through 101:

Q. So in the main then, the use of these words is by people who are not Plaintiffs in this action, is that not correct? A. Yes, that's correct.

Q. People who write in letters? A. That's what's been said.

Q. Were any of those people given an opportunity to be Plaintiffs in this case? A. Well, the people that wrote in usually we didn't know them.

(Pages 268-269) Question 140:

Q. . . . Does your approval of four-letter words depend on the context in which they appear? A. Yes.

(Pages 299-300) Question 18 and Questions 20 through 24:

DIRECT EXAMINATION, KARL KALP

Q. Have you had problems of salesmen frequenting the campuses? A. Yes.

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Q. Now, what have been some of the effects upon the education system of solicitors who come into the building? Give some examples. A. Yes. We have a readily available market for anyone who wants to purvey something to solicit people. We have a number of requests each year for people to go into schools to attempt to sell items to either the members of the faculties, or in some cases to the students. The usual procedure is to attempt to create a demand, frequently offer to give prizes or anything else to get themselves in the schools so they can have access to that market.

Q. And that is a strong desire, I assume, on the part of salesmen, to come in and talk to teachers? A. Very much so.

Q. And have you felt, or in your opinion is it necessary for the continuing function of education in the schools that this be limited, and screened? A. Absolutely.

Q. And do I understand you then, you discourage all solicitation at the schools? A. That's correct.

Q. Now, let me ask you if you have ever had experiences with newspapers in the past, pre-dating Corn Cob Curtain that were for distribution on the campuses? A. Yes, there have been previous, sporadic attempts to distribute papers of this type.

(Page 305) Questions 38 through 40:

Q. I will hand you what has been marked Defendant's Exhibit I, and ask you what that is? A. This is a copy of the Back Door Press, and was distributed at Manuel High School some several months ago, but more recently than some of the previous ones you showed me.

Q. Have all these papers at one time or another been present on the campuses of the high schools? A. Yes.

Q. And prevented from at least sanctioned distribution? A. Yes.

MR. MCTURNAN: At this time we now offer into evidence Defendant's Exhibits I, H, G, F, E, and J.

(Pages 311 through 328) Questions 57 through 61; Questions 63 through 86; Questions 88 through 118; Questions 120 through 121; and Question 123:

Q. Now, Mr. Kalp, what was your ruling and decision in each instance regarding those documents? A. That those documents could not be distributed in schools, or on the school grounds.

Q. Now, with regard to the Exhibit put out by the United Klan, apparently, based upon your experience as a teacher, administrator and superintendent in the Indianapolis city schools since 1948, do you have an opinion as to whether a publication such as that, if it reached one of your campuses, whether or not you might reasonably anticipate violence to erupt?

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A. It is my opinion that those materials would create a rather considerable disturbance, and our experience, we had a brief experience previously with this, was it spilled out into the greater community very rapidly.

Q. Have you recently had in the last year or two some instances in your schools, yes or no? A. Yes.

Q. Will you tell us about some of them? A. We have had considerably more incidents than can be attributed, I think, to the time prior to a few years ago. There is a heightened tension on high school campuses; there is apparently a greater readiness to react, normal exuberance of high school students comprising population of

some 13 to 20 years old, apparently reacts more readily now. I have my opinions as to why, but nonetheless, we have had incidents of fighting, rather large scale disorders, attempts at arson, arson.

Q. What school have you had that problem at, or would you rather not isolate any particular school? A. I would rather not even describe the incidents.

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Q. Have you in the last two years seen a situation where the teachers, administrative staff have lost control of the schools in Indianapolis? A. Not entirely. I think we . . .

Q. Explain that. A. Yes. We have had occasions where students would take over temporarily, cafeteria for example, or create a rather considerable disturbance in an area. Only on one occasion has the situation been such we felt it necessary to close the school for a portion of a day.

Q. What promoted that, do you know? A. Rather extensive fighting among students.

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Q. Is it, or is it not a fact that these matters sometimes occur as a result of a very minor incident at the outset? A. Yes. I was about to say that I doubt that there is one specific incident which causes the entire outbreak. It's probable that it's more nearly accumulative effect, with the possibility of one relatively minor or major incident touching it off.

Q. Now, when the Corn Cob Curtain came to your attention, did you have reason to believe in your opinion that it could cause a disruption in the schools? A. Yes, I did.

Q. Would you elaborate on that? A. Yes, I think I described the situation which has existed in our, well, primarily in our high schools, and given the potential for reaction among the student body, anything which tends to add to that could certainly reasonably be expected to result in a disturbance, or to add to a situation which was already building up from some other source.

Q. The fact the paper is unedited and receives letters from unknown sources cause you any reason as administra-

tor to be apprehensive about disruption caused by the paper? A. Certainly to my apprehension.

Q. Why is that? A. There is absolutely no way of knowing what kinds of responsibility are imposed; there are no restraints. Anything could be published and distributed, that appealed apparently to anyone, whether the person is emotionally disturbed or has some purpose intentionally to interfere with the operation of the schools.

Q. Do you have some emotionally disturbed children in the Indianapolis school system? Yes, we do.

Q. What are the ages of the children in the high schools in Indianapolis? A. Probably from a minimum of 13 to maximum of 20. We occasionally have older students, but not frequently.

Q. Do the younger children still look up to the older children? A. Yes.

Q. And try to emulate them? A. Quite frequently, and the school system attempts to develop leadership among the older students.

Q. Are you familiar with the record and background of some of the Plaintiffs in this case? A. Only as has been developed through this case.

Q. Would you say from listening to the testimony they would qualify as, they would probably be thought of as, among the students as more or less in the leadership class? A. Yes, I think this is obviously true with respect to the older students. And, that the usual tendency is for younger students to respect them and emulate them, and attempt to follow their direction.

Q. You observed one of the young men on the track team? A. Yes.

Q. Handsome young man, have you not? A. Yes.

Q. You observed also young lady, a very pretty girl? A. Yes.

Q. Is that a factor in student emulation among the younger students? A. Yes, obviously people who are physically attractive are, have better leadership and potential.

Q. And they obviously are all pretty good students? A. They do appear to have had better than average academic records.

Q. At the time you made the decision not to permit the paper to be distributed any longer, had there been some incidents not too far related in time? A. Yes, and particularly at Technical High School, which is where the request originated.

Q. How many students were at Tech? A. Approximately 5,000.

Q. Ranging in age from 13 to 20? A. Yes.

Q. Would you say at that time the situation was somewhat unstable at Tech? A. Yes, I think that is a fair characterization.

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Q. Have you observed the cartoon about the principal being blown up in the rest room area? Yes.

Q. Would you give us an opinion as an educator as to whether or not there was a possibility at the time these publications were offered, as to whether some child, whether he be having emotional disorder or not, might be incited to do something in the school as a result of observing this cartoon, and as a result of having in mind some of the leadership students in the school paper and publish it? A. Yes. I think it's very obvious. We had a demonstration yesterday. One of the witnesses who said one of the lists in there was a joke. It later developed he approved of all those things he described as a joke. I think given individuals under variety of circumstances react differently to cartoon. If the cartoon happened to appeal to something they feel at the time, this can be used in their own liking to strengthen and support whatever kind of behavior they feel appropriate.

Q. Do you frequently have behavior in your schools among children that you cannot explain? A. Yes, frequently at least in terms of the number of happenings. I don't think it's frequent with respect to the percentage of students and behaviors.

Q. Are you always able to anticipate what children are going to do? A. We certainly are not.

Q. Is it always something very serious that sets children off in these disruptions and confrontations; is it always something of a very serious nature? A. If it is, it certainly isn't discernible.

Q. It is not a significant thing that sets things off? A. That is correct.

Q. Do you know of any discrimination by the high school coach at Tech among seniors, or other students? A. No, I know of none. None has been reported to me. I have read the rebuttal that appeared in the Arsenal Cannon.

Q. By whom was that written? A. Members of the football team, some members of the football team.

Q. And they rebutted the article? A. Yes.

Q. Do you know the Tech football coach? A. Mr. Bell, yes.

Q. Do you know his views on discrimination? A. I think I do.

Q. What are they? A. I think Mr. Bell has worked at Tech for probably some 15 or 20 years, and to the best of my knowledge there has never been anything that could be attributed to him as a discriminatory act. We are using the word rather loosely. Obviously, I hope he does discriminate between those players who are good, and those who are not so good, and plays the better player.

Q. You know what I'm talking about, in terms that appeared in the Corn Cob Curtain. A. Yes.

Q. Now, in your opinion as an educator, having in mind some of the issues of the day, would it be damaging to a coach in his profession if he were labeled in this city, and he was accepted as a person who discriminated racially among his players? A. Not only as a coach, but as a teacher.

Q. What would happen to him if he were under your jurisdiction as one of your employees if he demonstrated or advocated such a philosophy, Mr. Kalp? A. We would be required to take some disciplinary action.

Q. And you would do what? A. We would either relieve him of his coaching duties, if that is where the only discrimination existed. If it existed in other areas, we would have to relieve him of his duties also.

Q. In other words, it would be a very serious matter? A. Extremely serious.

Q. And when you viewed this article about your coach at

Tech, did you consider it as a serious allegation? A. Well, serious enough to ask the administration if there was any evidence to support it.

Q. You did follow that up? A. Yes, we may be hypersensitive to allegations of discrimination, but those are the conditions now.

Q. Was a check made with football players? A. Yes, through the administration there.

Q. And then in turn some selected football players wrote an article? A. That is correct.

Q. Now, do you have any problems in your school system about maintaining quiet, and I am departing now from the situation of violence. I am talking about quietude in general. Is that a problem, more than it used to be? A. Yes. And I think obviously there is always some problem of maintaining a reasonable sound level, given concentration of students you have about a relatively confined area. And I think it is safe to say, and rather observable, it has been coming along rather widely of the various publications, the whole area of tendency toward unrest in schools have increased.

Q. With that particular thought in mind, directing your attention to that area of our discussion now, I would like you to give me your opinion, if you have one, as to what would occur, would have occurred, reference that situation, had permission been given to distribute the Corn Cob Curtain in all of the schools? A. I think undoubtedly there would have been an increase in the number of students who received the paper through purchases, contributions, or whatever. The information contained in the papers certainly would appeal to at least the younger students who haven't become quite as sophisticated yet in their handling of some of the language that is in there. I'm sure that is the thing which would appeal to them the most because that is the thing which they probably had less ready access to. The other kinds of material which was in there was rather humdrum and probably isn't going to have that much appeal to generally ninth and tenth grade students. My experience has been that the distribution of materials are, for that matter, it takes very little to set off minor flurry

of excitement among younger students, at least, and cause quite a bit of conversation among them, heightened interest which spills over into classrooms, and then there is a lot of tissue showing latest information to the other students in the class. I think a general lack of attention to the instruction program the teacher is representing.

Q. Do you know what would be the effect, do you have an opinion as to what would be the effect of the distribution with the sanction of the school, or with the permission of the school of the Corn Cob Curtain with content similar to what you found to be offensive?

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A. It's my opinion it would be offensive to a majority of the students, and the parents of those students in this community.

Q. Would it be embarrassing to many of the students? A. Yes, I'm sure that it would be.

Q. Now, what in your opinion would be the situation if after months of distribution, and it became generally known that the administration permitted this type of commentary, and provided a place for its dissemination? A. I think the obvious reaction would be a lowering of the respect of the school by the patrons, a continued deterioration of morale of teachers. I think we accept as one of our goals the upholding of community values and standards, and I think it is pretty difficult, if not impossible, for teachers to do that when confronted by counter-movement on the part of the administration that functions with the sanction of the administration.

Q. How about—what does the word "desensitize" mean to you as an educator? A. It means the removal of sensitivity to whatever is in question, and this would certainly happen. I think there is ample evidence in sociological and psychological study, people can be desensitized to almost anything, particularly language. A word can be repeated until it loses all of its original intent, purpose and meaning, and this can be expanded into a number of other areas, and this is obviously a deterioration of the values and standards of a community. This

gets to be a rather sophisticated study, and can be extended, too, from an intellectual to a physical level. And I think there are numerous occasions this having happened. The classic ones are in the purges and what not that occurred in Germany and Russia that were finally accepted. Desensitization, to me, refers to that kind of activity which can be very simple, but very pervasive.

Q. And when you become desensitized to the word, then is it possible to become desensitized to the act represented by that word? A. It's quite possible.

Q. Do you feel that there is any social purpose served by the dissemination of this paper in its entirety, having in mind the four-letter words that it contains?

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A. As it exists, I think the detrimental qualities are the only ones which I see. I see nothing socially redeeming about it. I can see no purpose for it; and I think if it were distributed with the approval of the administration that the general attitude of the community would be reflected in lack of respect for the administration.

Q. Do you have an opinion as to whether, perhaps I've asked you this, as to whether or not the four-letter words, and the cartoon, and the test to be a hippie is such that it dominates the entire publications, that sort of language dominates the entire publications? A. That's the only part of the publication that isn't available to the students in a much better form than other publications. Book reviews and poetry, that sort of thing are, I think as Mr. Pinkus mentioned, very commendable effort at literary work on the part of the students. But, as he also admitted are not very refined efforts.

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Q. . . . Now, what would be the effect upon the principal in a school upon seeing a document such as the one showing yourself blown up. Would he identify that, if distributed in his school as meaning him? A. Yes, and I assume that is what it was intended to be.

Q. And I assume all the other students would think so, too? A. Yes, they have a principal.

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Q. I will just ask, if he knows—do you know the attitude of the great majority of teachers and principals in this community respecting the type of four-letter words, the chart to be a hippie, and the cartoon of the principal being blown up? Do you know what that attitude is? A. Yes. Let me say this, those administrators and teachers who have contacted me have all been negatively impressed by it, and feel that this is a—something which can continue to lower morale in teachers. I have not yet been approached by someone who felt it was a desirable publication.

(Pages 348-349) Questions 71 through 75:

CROSS EXAMINATION, WALLY POTTER

Q. Do you recall the substance of that discussion with Mr. Reed? A. Essentially, one of the things that hasn't been mentioned was that our former Superintendent at one time, Mr. Reed reported this to me, discussed with him this particular type of publication. And he basically, according to Mr. Reed's comments to me, advocated we not—there again, over-react on items of this type, which I previously mentioned. And I'm sure that part of our discussion related back to that comment.

Q. Are you using the word "over-react", Mr. Potter? A. Well, to by your action cause a more serious disturbance than the situation that is existing at the time.

Q. So, on the basis of your information about an alleged conversation with a former administrator of the school, you decided, did you not, to take no particular action with respect to Corn Cob Curtain, at least for the immediate period after you learned of its existence? A. Yes, sir.

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REDIRECT EXAMINATION, WALLY POTTER

Q. Did you hope it would go away? A. Yes, sir.

Q. Had that occurred with other matters before where you hadn't over-reacted? A. Yes, sir. Let me qualify that. To my knowledge it had occurred before and gone away.

CORN COB CURTAIN, PAGES 14-15—EXHIBIT B OF COMPLAINT:

TECH FOOTBALL IS IT THE COACHES?

I've played football since Jr. High School and it really meant a lot to me but now I can take it or leave it. This just happened this year. I had always been told not to go to Tech to play football because the coaches do you wrong. Some of the coaches have discriminated against blacks. I've known this since I was a freshman but I wanted to prove them wrong. Mr. Kootz, asst. football coach last year, really put pride in me taught me the meaning. I really loved him for this but all he has taught has been torn down by the coaches this year.

TECH'S HEAD FOOTBALL COACH DESTROYS DESIRE OF PLAYERS!!!

On August 15, the first day of football practice the Titan boys had a strong desire to have a ten and zero year. Their desire hasn't changed one bit but their willingness to work for a winning season has dropped considerably. The head coach, Carlos Bell, in my opinion is the reason for the sudden change in spirit. He chooses his favorites and works consistently with them even though there are replacements on the bench that could be of equal performance or better if they were only given an equal opportunity. Mr. Bell says he is being fair, I disagree. I know one player he uses in some games and in others he tells him he is too small. There are others he discriminates against because they aren't "yes" men and say "yes sir" and "no sir" all the time. This is not fair. The team morale is poor because the handful of people he discriminates against are seniors, some lettermen and others, the morale builders when the morale is built. It always amazes me how a coach can find a replacement for a starter when he isn't at practice or he is ill, but the replacement isn't good enough to start in the following game, even though the coach says if you miss practice you don't start. Another reason the team spirit isn't as it should and would be, is that Tech's headcoach has been around as a coach (not headcoach) for 18 to 22 years and feels that he can coach every group of boys as he did every group in the past. This isn't true since the

players personalities vary from year to year. Tech, no doubt has the material to have been no 1 in the state if they were only given a coach. When something goes wrong the coach alibis for it and he shouldn't. Still another reason Tech's team isn't up to power is that the coaches are very rarely in agreement. To have a good team you have to have togetherness in the players and the coaches so you are like one big family, and this is something that Tech doesn't have.

A Tech Senior pulling for the team.

One of the biggest problems this year has been favortism in all sports. But the main issue is football. It seems that Tech's football team is loaded with ability rangeing from running backs to defense backs.

There's a number of seniors who had seen a great deal of action last year but hardly any this year. Is it a lack of ability in the players? or the coaches? or both? or just—(indecipherable).

There are many athletes who quit football at Tech after one or two years, including myself. Their reasons for quitting had nothing to do with their desire to play or their ability. The coaches are just not interested enough in making football a desirable thing.

The coaches cannot run a team with the idea that complete discipline and all hard work will make it succeed. This is exactly the tactics they used that made so many capable individuals quit the team. It's not only those that quit, but Tech has an enrollment of nearly 5,000; and yet the coaches don't do anything to try and get potential athletes into football. Tech can rebuild its football team if the coach will make it seem less like a personalized war and instill more of the spirit of high school football.

When I was a member of the Tech football team, I didn't have a very good attitude toward the coaches and the idea of playing for a winning football team. I felt that if I did not start, the coaches didn't know what they were doing. I was wrong. It took me four years to learn that I, and anybody thinking they are over the coaches head, are dead wrong. They say that the coaches do not play the right people, he's prejudiced, he's outdated, and he's pigheaded. They might even say he is inhuman. Well this may all be

slightly true except the letter. If he makes these mistakes he's nothing but human. The athletes should realize this. I am not saying they are entirely wrong but that they, by argueing who is right and wrong, are destroying Tech's Athletic Program. When a coach says, "Hell! youre nothing but a sissy." The football player should instead of mopeing say "Hell!! I'll show you." If this kind of never-give-up attitude prevails at Tech, sports will become a lasting spectacle instead of a boring bunch of "who's fault is that".

A growing young man.

At the start of this year, the newspapers and other observers gave Techs team a fair rating. Withe several of the best backs in the city, the team was to be built on speed, and were to bring victory to the team. The schedule has not been hard, but still Tech can't easily win. The veterans of the squad, a few seniors are still on the team, should contribute enough to stir a win, but a few of these are sitting on the bench after three years of dedication. Could it be that the teams failure is due to something other than the players? It may be the coaches!

Two former Tech footballers

Remarks have been made about the CCC criticism. The articles about the football teams were not written with no objective in mind. We would like to see results; and for the proper authorities to at least investigate the matter.

Although there are only several peoples' veiws printed here, we have not been one-sided The sentiment expressed here seems to be shared by the majority of past and present Tech football players.

The Arsenal Technical high schools football team is 3-4-1. Compared to last year, this is good, but in my opinion with the perso*nel* this high school could have and the perso*nel* we've got, I believe something is wrong with the coaches. We should have the biggest line in the city, and in my opinion could have if not for the coaches. One of the biggest boys in the school quit the team one year recently because the coaches wouldn't get him some shoes. To beat all, out of the players we've got, some of the best don't get to play. Something must definitely be done. And as a beginning, new coaches!

Is the school supposed to impress us or repress us?

Good question. From the time you were old enough to go to school, the facts have been pounded into your head that your teacher is always right. Where the hell this idea comes from I assure you I don't know. We sit in our little chairs and look interested and listen to the teacher's lengthy explanation of why potatoes cost more in Alabama while we're actually sitting there writing obscenities on the desk. Education—bullshit.

Who Are You?

"Man is willing to accept woman as an equal, a man in skirts, as an angel, a devil, a baby-face, a machine, an instrument, a bosom, a womb, a pair of legs, a servant, an encyclopedia, an ideal or an obscenity; the only thing he won't accept her as is a human being, a real human being of the female sex."

D. H. Lawrence

Who Are You?

I'm a baby dressed in pink . . . Oh, look at how soft and feminine she is, so quiet and good. Not at all like her mischevious brother who screams and kicks and forever gets into things—the death of his mother and the pride of his father. Yes, she's everything a little baby girl should be.

Little tomboy, climbing trees and building with Erector sets—that's me. And that's me, finally passing through my phase, picking up my doll to play house. Let's have a tea party.

Frustration tugs at the back of my mind. Mother makes me help with the housework and learn to cook ("But it's good practice! You want to get married someday, Don't you?") while my brother is allowed to play. Changes are taking place, and I feel disgust with my body for a week every month. It's horrible to be a girl. Oh God, I wish I was a boy.

I want to go to college, "Yes, an . . . (undecipherable) . . . a perfect place to find a husband!" No one seems to understand. I want to learn, grow, live, be a person"! But I'm lonely and alone. To most women, I'm some strange chick or a competitor for their man and therefore a potential

enemy. To a few, I'm a sister who knows and understands, and with these I find solace in our common suffering. To the men, I'm a number of things: a Miss or a Mrs., a pushy bitch, a lady on a pedestal a baby machine, a piece, a potential mother of their children and a combination cook/maid/laundress/slave, or somebody's sister or daughter or old lady.

Maybe someday, somewhere, I'll be somebody's equal. Maybe someday, somewhere, woman will cease to be the nigger of the world.

"Remember the dignity of your womanhood. Do not appeal, do not beg, do not grovel. Take courage, join hands, stand beside us, fights for us."

—Christabel Pankhurst (English suffragette, 1880-1958)

CORN COB CURTAIN, PAGE 19—EXHIBIT B OF COMPLAINT:

A question which usually pops up that no one really knows is an exact stereotype for: Who is a Hippie?

The editors of the *Curtain* have devised a system of points to determine, not only who is a hippie, but to keep with the Amerikan tradition of prestige, competition, and clique statis, it shows who is more of a hippie than another. Hence: the following is a list of Hippie Points. Those who disagree with this system may appeal to Abbey Hoffman (Chairman Hippie) or the *Curtain*. A total of 100 points qualifies you as a hippie.

Anti establishment rap	madnatory
Long hair (collar length or longer)	madnatory
Hair length each additional ½ inch	15 points
Blue jeans	10 points
Army jacket	10 points
User of marihuana	25 points
User of hallucinagens	15 points
connesieur of rock music	madnatory
rock music records	2 points/e
Long distance hitchhiking	1 pt/10 mi.
Wire rim glasses	10 points

Attender of demonstrations	10 points
Draft Evador	100 points
Getting busted	50 pts./bust
Hocking Corn Cob Curtain	30 points
Draft Card burnings	45 points
Flag burnings	75 points
Black light	10 points
Psychedelic opium den	25 points
Patron of Sears underground shop	10 points
Number of freak girls screwed (Undecipherable)	5 pts./girl

CORN COB CURTAIN, PAGE 21—EXHIBIT C OF COMPLAINT:

ON YOUR ASS

First of all, I would like to start this paper by stating: Opinions expressed herewithin, this and all other articles, are not necessarily those of the Corn Cob Curtain, nor are they of the staff. Staff, a loosely applied term identifying those responsible for the publication of the paper. Originally intended, Cob was meant to be a means whereby people relevent to high schools or education in general, might voice their opinions or express their ideas and beliefs, in written form for all the public to see.

From the multitude of participation from all the Indianapolis area high schools, it has become apparent, and no other conclusion can be drawn, that the majority of the students or faculty or administration have no ideas, opinions or beliefs relevent or not. Also justifiable to say that they are completely satisfied with the relationship existing between the faculty, the administration and themselves.

Some of you are so one-sided in your attitudes as to accept anything pushed upon you by the administration. This is not to say that the administration in reality is organized for the sole purpose of destroying your individual-

ism. Some form of authority is necessary, thusly so it deserves respect. Inversely true is that authority should not be all powerful.

It should have specific guidelines for carrying out its authority. These guidelines should be made by the people having to live with them.

The administration heading the schools is also one sided in their views. Blame for this cannot be laid soley to the establishment, for it is made up of individual persons. *T*each individual has some fault.

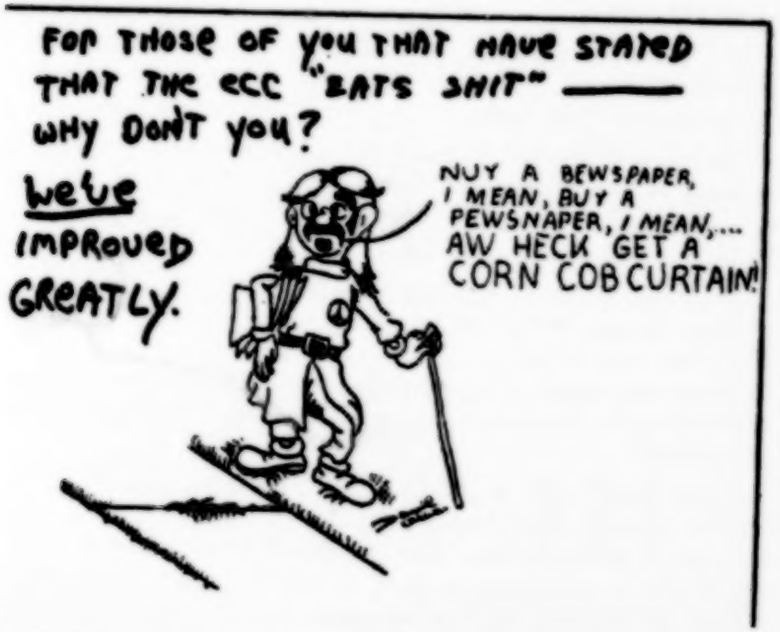
Secondly some of you have realized the screwedupness of these certain individuals who carry out their own beliefs, ideas and philosophies under the guise of being the authority. Still there you sit in your ego-bricked ivory-towers and do nothing. In defense of yourself you say "How can I do anything?"

Here is your chance. Right here, this paper. That's right, lack of participation has let most of the work of the peper fall into a group of less than one-dozen or so persons. It is up to you to devise a method in which to organize your school, to form a bond of organization between members of your school that no authority can ever hope to break. This one dozen minority cannot solve your problems. Neither do we propose to, but how could we ever hope to, if we had the power? If you are too lazy to help assemble others or express your own into a paper, then nothing will ever be accomplished.

We, no not we. Our paper, no not our paper. You, your paper, need to criticize what's wrong with the Cob, if you don't like it. You are the only one who can change it.

This paper needs people to participate, in production. It needs you to come to the meetings which are held at COPE Academy on Sunday at 3:00 at Brookside and Windsor. Finally, your written expression is needed for the survival of this paper.

CORN COB CURTAIN, PAGE 26—EXHIBIT C OF COMPLAINT:


FOR THOSE OF YOU THAT HAVE STATED THAT THE ECC "BATS SHIT" ——— WHY DON'T YOU?
WE'VE IMPROVED GREATLY.
NUY A BEWSPAPER, I MEAN, BUY A PEWSNAPER, I MEAN,... AW HECK GET A CORN COB CURTAIN!

CORN COB CURTAIN, PAGE 32—EXHIBIT D OF COMPLAINT:

DEFINITION OF ASS

For the benefit of the administrators we shall publish a definition of ASS. It is the portion of the anatomy which most people sit on. We have found, however, that at least one Vice-Principal uses his to think with and speak out of in lieu of a head.

• • •

BREAKING MINDS!

Minds start out fresh at birth free and easy. Soon through learning, feeling, and seeing, the infant begins speech. In a few years, he's put in a school-not education, but schooling. After 8th grade, he is able to read, write, and do enough math to get by on. But he is sent further forced to learn.

The idea of education in high school is a lot of shit, a person can learn more about everything by living, traveling, and experiencing. Schooling breaks, bends, twists, and tears the mind down until the person is so confused, he believes in all the shit that is put in him.

The U!S! talks about brainwashing Russia and China. What about brainwashing in good ole apple pie America?

Starting in grade school, the child is taught to be a good American citizen and salute the flag and that Communism and Socialism are bad. But, that child is never told what Communism and Socialism are in a real sense—only that they're bad and their bad points. . The child, as child, boy, man, or woman, is *never* taught the fucked up points about its own government and society.

This mind is broken in all of us and it's still hard for me to get off some of my prejudice ways, but I try, and that's a lot more than I can say for the U!S! schools.

I have a suggestion: read *"Custer Died Your Sins,* an Indian manifesto by Vine DeLoria, Jr., and see how great this country of our is.

Maybe, just by chance, that book might (if not only slightly crack) can break your mind, and make you think and when you do BE ASHAMED of your great, great grandfathers and all Americans.

FANGMEIER

CORN COB CURTAIN, PAGE 38—EXHIBIT E OF COMPLAINT:

Last issue one of my fellow Franklin Central students had a letter published. His letter represents over half of our school, which should say something for Franklin Central.

Most of the students at our school listen to "our leader" P.C., who is one of Hitler's few living henchmen. He tells you what to wear, when to wear it, and how your hair should be cut. He, like his followers, lives in the mid-1940's.

The students of this school are so plastic that it's unreal. When one of the "group" say something is wrong half the school jumps. Apparently one of our higher class groups decided that the Curtain was detrimental to the school and their leader.

I must apologize for the writer of that letter, mainly because he doesn't have any sense.

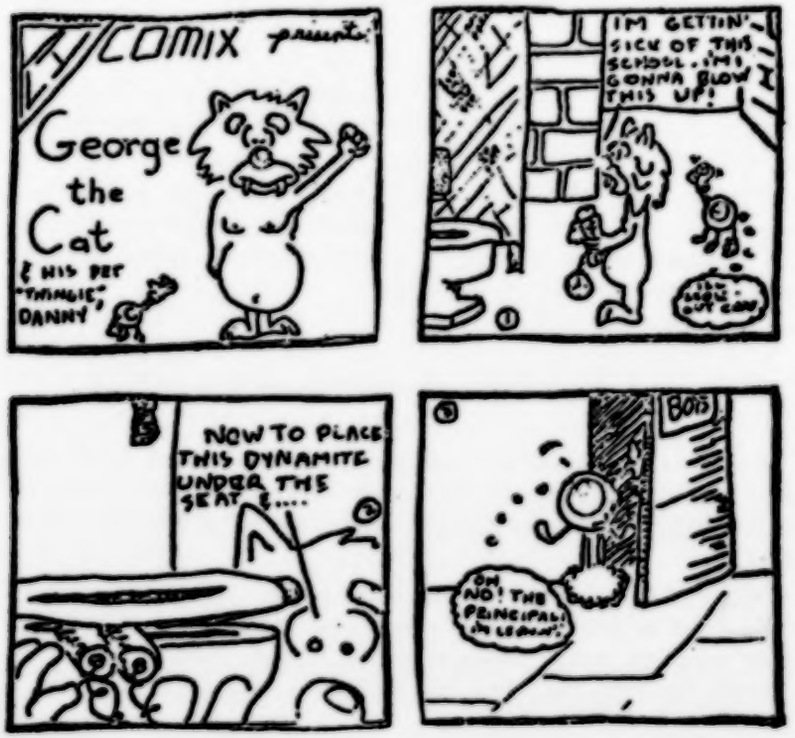
This school will gradually change, but until then the Curtain is our only source of enjoyment from the outside world. Sort of like Radio Free Europe.

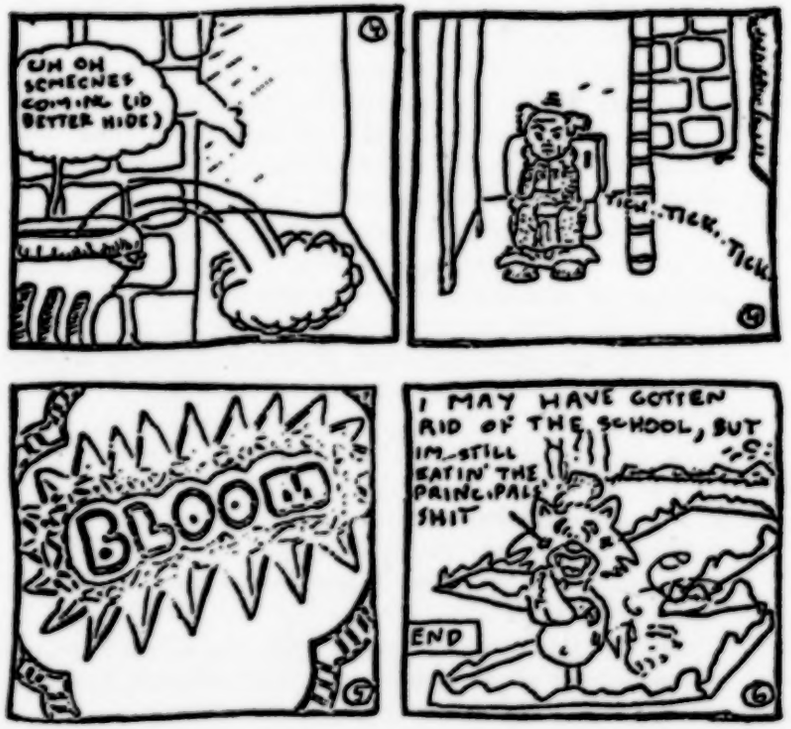
Keep the paper coming our way; there are a few of us who have control of minds.

CHRIS GOLDER

To the group: Fuck off!

CORN COB CURTAIN, PAGE 48—EXHIBIT E OF COMPLAINT:


COMIX
George the Cat
& HIS PET "TWINKIE" DANNY
IM GETTIN' SICK OF THIS SCHOOL. IMO GONNA BLOW THIS UP!
NOW TO PLACE THIS DYNAMITE UNDER THE SEAT &....
BOOM
OH NO! THE PRINCIPAL IS LEAVIN'!


UH OH SOMEONES COMING. I'D BETTER HIDE!
TICK..TICK..TICK
BLOOD
I MAY HAVE GOTTEN RID OF THE SCHOOL, BUT IM STILL EATIN' THE PRINCIPALS SHIT
END

DEFENDANTS' EXHIBIT C

AFFIRMATION

I/we, being parents of students and/or students of high schools and/or administrators in high schools in the City of Indianapolis, hereby affirm under penalty of perjury that the following facts are true:

1. I have reviewed the attached exhibits A and B. [Exhibit A-Definition of hippie, reprinted at App. 57-58; Exhibit B-Bomb cartoon, reprinted at App. 62-63]
2. Said exhibits are offensive to me and my sense of morals, decency, and have no place in our school system.
3. Said documents attached as said exhibits are embarrassing and if distributed at the schools would be disruptive and unsettling to a great majority of the students and teachers and staff, in my opinion.

4. I believe that some of the material which dominates the entire publication in impact if not in quantity predominantly appeals to the prurient, shameful, or morbid interests of minors; is patently offensive to prevailing standards in the educational community as a whole with respect to what is suitable material for minors; and is utterly without redeeming social importance for minors.
5. I feel that there is absolutely no valuable social purpose served by the dissemination of any said exhibits; that the matter contained therein is contrary to the moral code of the great majority of people in this community, including the great majority of minor children attending high schools in the community.
6. I feel that some of the matter attached as exhibits hereto is defamatory in that it paints the principal as a person who is so worthless and deplorable that he should be destroyed and blown up, and it conveys the message to students that he is so bad and foul that even after being destroyed by dynamite his presence is still felt in a vile way.
7. I also feel that unfair attacks upon the administration and members of the faculty and staff without designating authors of such articles is deplorable.
8. I believe that cartoons which purport to recommend that the school should be blown up along with the principal might actually promote such a tragic incident.

PLEASE SIGN BELOW

(Signatures of 220 parents and students omitted in printing)

(Signatures of 10 high school principals and two vice principals omitted in printing)